

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall, 301 Main Street
September 14, 2005

MEMBERS

Christopher A. Abel
Nicholas F. Barba
Anne C. H. Conner
John R. Davis
Alexander T. Hamilton
Alfred E. Ptasznik, Jr.
John W. Staton

CALL TO ORDER

Chair Alfred Ptasznik called the meeting to order at 7:00 PM.

ROLL CALL

The roll was called and the following members were present: Messrs. Barba, Davis, Hamilton, and Ptasznik. Absent were Mr. Abel, Ms. Conner, and Mr. Staton. Staff members present were J. Mark Carter, Timothy C. Cross, Amy Parker, Earl Anderson, and James E. Barnett, Jr., County Attorney.

REMARKS

Chair Ptasznik stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

APPROVAL OF MINUTES

Mr. Hamilton moved adoption of the minutes of the work session of August 3, 2005. They were adopted unanimously by roll call vote.

Mr. Hamilton moved adoption of the minutes of the regular meeting of August 10, 2005. They were adopted unanimously by roll call vote.

Mr. Hamilton moved adoption of the minutes of the special meeting of August 24, 2005. They were adopted unanimously by roll call vote.

CITIZEN COMMENTS

Mr. Robert Duckett, Director of Public Affairs, Peninsula Housing and Builders Association, spoke about the Housing element of the draft Comprehensive Plan. He suggested some reflection on or revision to certain statements contained in the paragraphs “Age and Quality,” “Occupancy,” “Affordability,” and “Planning Issues for the Future.” The full text of Mr. Duckett’s remarks is attached to the Minutes.

PUBLIC HEARINGS

Application No. UP-680-05, SprintCom, Inc.: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize a 160-foot self-supporting communications tower with associated ground-mounted equipment located on a portion of the property located at 2239 Hampton Highway and further identified as Assessor’s Parcel No. 37-16A. The 1.01-acre property is located on the north side of Hampton Highway (Route 134), approximately 600 feet east of its intersection with Big Bethel Road (Route 600). The property is zoned GB (General Business) and is designated for General Business development in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, presented a summary of the staff report to the Commission dated September 7, 2005. The applicant had considered other options, such as co-locating on an existing tower, but concluded a taller tower is needed to cover communication gaps that exist in the Big Bethel corridor area. The staff recommended forwarding the application to the Board of Supervisors with a recommendation of approval.

Mr. Hamilton asked how many additional users the proposed tower could accommodate, and **Ms. Parker** told him the County requires as at least three as a standard condition of approval. It may be possible to accommodate more, she added, depending upon the individual carriers and the height they require.

Mr. Ptasznik mentioned the 120-foot-tall flag tower that was approved for the same general area and was advised by staff that the Special Use Permit had expired and the tower was never built.

Chair Ptasznik opened the public hearing.

Mr. Richard S. Nayductt, 1305 Buckingham Station Drive, Midlothian, Virginia, represented the applicant. He told the Commission an exhaustive search was made for a suitable co-location site before reaching the conclusion a new tower was needed. The proposed site is centrally located in an area having existing communication gaps. The site ensures adequate visual buffering with 80-to-100-foot-tall trees that would surround the tower, **Mr. Nayductt** added. He requested a recommendation of approval.

Mr. Ptasznik asked if any lessees have signed up and **Mr. Nayductt** said there were no lessees at this time but he expected no problem getting co-locators on this tower.

Mr. Davis wondered what would become of communication towers that were no longer needed as technology advanced and rendered them useless. **Mr. Nayductt** noted that the proposed conditions of approval require the applicant to remove a tower that is not used for a period of six months, but in his opinion the technology is here to stay for the foreseeable future.

Hearing no others who wished to speak, **Chair Ptasznik** closed the public hearing.

Mr. Hamilton believed the proposed tower could provide a valuable service offering space for co-locators and thus maximize its potential.

Mr. Barba supported approval.

Mr. Davis moved adoption of proposed Resolution No. PC05-37.

Resolution No. PC05-37

On motion of Mr. Davis, which carried 4:0 (Abel, Conner, Staton absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A 160-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER WITH ASSOCIATED GROUND MOUNTED EQUIPMENT AT 2239 HAMPTON HIGHWAY

WHEREAS, SprintCom, Incorporated has submitted Application No. UP-680-05, which requests a Special Use Permit pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize construction of a 160-foot freestanding monopole communications tower with associated equipment on the parcel located at 2239 Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 37-16A (GPIN U02a-2236-3699); and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of September, 2005 that Application No. UP-680-05 be, and it is hereby,

transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction of a 160-foot freestanding monopole communications tower with associated equipment on the parcel of land located at 2239 Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 37-16A (GPIN U02a-2236-3699), subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole communications tower with associated equipment on the parcel of land located at 2239 Hampton Highway (Route 134) and further identified as Assessor's Parcel No. 37-16A.
2. The height of the tower shall not exceed 160 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "Sprint, Jones Property, 2239 Hampton Highway, Yorktown, VA," Sheets T-1, S-1, S-2, Z-1, Z-2 and Z-3, dated 6/29/05 and revised 9/6/05, prepared by Fullerton Engineering Consultants, Inc. and received by the Planning Division September 6, 2005. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.
4. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.
5. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

7. The access easement as shown on the above noted sketch plan shall be established for the benefit of tower patrons for purposes of ingress, egress, and installation and maintenance of utilities associated with the proposed telecommunications facility prior to site plan approval.
8. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
9. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
10. Evergreen planting material shall be installed for screening surrounding the facility as shown on the above referenced sketch plan Sheet Z-2 and pursuant to Section 24.1-240 et. seq.
11. Existing trees outside of the tower compound, access easement and utility easement areas shall be maintained by the applicant.
12. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
 - (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or
 - (2) The County requests, in writing, that the tower be reserved for County use.
13. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
14. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.
15. The proposed 8-foot chain link fence surrounding the facility shall be outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administrator.

16. The communication tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted to and approved by the County.
17. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
18. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
19. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval or issuance of a Certificate of Occupancy, whichever occurs first.

NEW BUSINESS

Comprehensive Plan Update: Consider Proposed Resolution No. PC05-38 to certify and transmit to the York County Board of Supervisors a proposed updated Comprehensive Plan for the County titled *Charting the Course to 2025*.

Mr. Ptasznik remarked on the public hearing conducted August 24 for the draft Comprehensive Plan, calling it a successful hearing that offered insight into citizens' concerns. He noted that staff is proposing some revisions as a result of the public hearing.

Timothy C. Cross, AICP, stated that staff had recently received a citizen comment on the draft Plan in addition to those transmitted to the Commission previously. He stated that a landowner had expressed opposition to the proposed change in land use designation at the southwest quadrant of Route 134 and Bethel Road, currently designated GB surrounding the intersection. The citizen opposed a change from General Business to Limited Business because her family owns two parcels that would be affected and such rezoning would reduce the range of permitted uses on the family-owned parcels. Mr. Ptasznik asked if the citizen could request a rezoning at a later time. Mr. Cross said she could, adding that the rationale for reducing the size of the commercial node was to discourage strip development because of the proximity to existing residences.

Mr. Cross addressed the comments raised by Mr. Robert Duckett during Citizen Comments.

- “Age and Quality,” (page 4): Residential densities in York County are relatively low, as Mr. Duckett pointed out, and that error will be corrected in the draft Plan.
- “Occupancy,” (page 4): It is the Planning Commission’s discretion whether or not to add a sentence that the County may be approaching an underbuilt market based on a vacancy range of three to five percent of the total available housing; the current vacancy rate of 3.4 percent is within that range.
- “Affordability,” (page 5): Mr. Cross disagreed with Mr. Duckett’s assertion that nobody chooses to spend more than 30 percent of his or her gross household income on housing. He stated that the fact that households earning very high incomes are paying 35 percent or more of their income for housing is not evidence of a housing affordability problem.
- “Planning Issues for the Future,” (page 7): Mr. Cross noted that Mr. Duckett cited what appears to be a typographical error and the 2000-acre figure will be replaced with the accurate residential acreage figure that appears elsewhere in the Plan. He further stated that approximately 8000 future housing units on approximately 6600 acres should equal full buildout of the County.

Mr. Barba mentioned a five-acre parcel on the north side of the Fort Eustis Boulevard extension that the draft Comprehensive Plan proposes to redesignate from Limited Industrial to Medium Density Residential on which commercial development appears to be taking place. He speculated whether the property should keep its current designation. Mr. Carter said he would check on any current activity. He added that the zoning policy contained in the draft Comprehensive Plan is a sound one and any zoning issues would be resolved within the parameters of the policy. If the Commission recommended approval of the revised draft Plan as proposed, Mr. Carter would advise the Board of Supervisors of any current activity on the property.

Mr. Ptasznik said the Commissioners who are absent have had opportunities to review the draft Plan and submit any concerns or comments to the staff. He added that some citizens have commented favorably to several members of the Steering Committee about recent revisions incorporated into the draft Plan.

Mr. Davis added that all of the Commissioners present at this meeting were active in drafting the Plan, having served on the Comprehensive Plan Steering Committee.

Mr. Hamilton moved to adopt proposed Resolution PC-05-38.

Proposed Resolution PC05-38

On motion of Mr. Hamilton, which carried 4:0 (Abel, Conner, Staton absent), the following resolution was adopted:

A RESOLUTION TO CERTIFY AND TRANSMIT TO THE YORK
COUNTY BOARD OF SUPERVISORS A PROPOSED UPDATED
COMPREHENSIVE PLAN FOR THE COUNTY

WHEREAS, the Code of Virginia (1950), as amended, requires the adoption of a comprehensive plan by all Virginia localities; and

WHEREAS, §15.2-2225 of the Code of Virginia requires certification of the Comprehensive Plan based on the Planning Commission's recommendation to the Board of Supervisors; and

WHEREAS, on December 5, 1991, the York County Board of Supervisors adopted the County's Comprehensive Plan titled *Charting the Course to 2010*; and

WHEREAS, §15.2-2230 of the Code of Virginia requires that the Planning Commission, at least once every five years, review the Comprehensive Plan and determine whether it is advisable to amend the plan; and

WHEREAS, the last comprehensive review and update of the plan was completed in October 1999; and

WHEREAS, the Comprehensive Plan Review Steering Committee, appointed by the Board of Supervisors and the Planning Commission, conducted a complete and thorough review of the Comprehensive Plan from July 2004 through July 2005; and

WHEREAS, the recommendations of that committee, embodied in the draft plan update, have been referred to the York County Planning Commission for its review and recommendation; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on the draft plan update; and

WHEREAS, the Commission has thoroughly reviewed the draft plan update and has carefully considered the public comments with respect to the draft plan; and

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of September, 2005, that the proposed updated Comprehensive Plan, entitled *Charting the Course to 2025*, dated July 27, 2005, amended in accordance with the recommendations titled "Proposed Revisions to the July 27th Draft of the York County Comprehensive Plan: Charting the Course to 2025," prepared by the York County Planning Division and dated September 7, 2005, and attached to the Planning Division staff report to the Commission dated September 7, 2005, is hereby certified and transmitted to the York County Board of Supervisors with a recommendation of adoption.

NEW BUSINESS

There was no new business.

OLD BUSINESS

There was no old business.

STAFF REPORTS

Mr. Carter advised the Board of Supervisors will hold a work session on the draft Comprehensive Plan October 11 at 6:00 PM in York Hall, and has targeted its second meeting in October for the public hearing. That is subject to confirmation of the meeting date change to October 25 because the regular meeting date would be the eve of Yorktown Day.

Mr. Carter distributed the "Development Activity Update" dated September 14, 2005.

COMMITTEE REPORTS

There were no committee reports.

COMMISSION REPORTS AND REQUESTS

Chair Ptasznik encouraged all members to attend the annual meeting of the Citizens Planning Association of Virginia on October 9-11, 2005, in Roanoke.

ADJOURN

The meeting was adjourned at 7:42 p.m.

SUBMITTED: _____/S/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/S/_____
Alfred E. Ptasznik, Jr., Chair

DATE: October 12, 2005